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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/694,429

Applicant(s)

ULVENES, RANDY

Examiner

MICHAEL C. LAI

Art Unit

2457

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-6 and 13-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-6, 13-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is responsive to communication filed on 4/21/2011.

Response to Amendment

2. The examiner has acknowledged the amended claim 13. Claims 4-6 and 13-19 are pending.

Response to Arguments

3. Applicant's arguments filed 4/21/2011 have been fully considered but they are not persuasive.

In the remarks, the applicant argues in substance that: **A)** Nakanishi teaches the content server sending the content to the client after the commerce server has already provided a size- based cost indication to the client and has established user payment authentication. This process does not amount to the claim 4 recitation of computing size-based cost during transmission of the content within the communication path from the content server to the client station, since the Nakanishi size-based cost process seems to occur before the content even leaves the content server. Consequently, based on this understanding, Applicant submits that Nakanishi does not anticipate claim 4. **B)** Claim 4 not only recites carrying out functions within the communication path between the content server and the client station, but claim 4 also expressly recites as one of those functions "after receiving the user approval, sending the web content to the client station." Banjeree does not teach this function, and it would be illogical to suggest that Banjeree's teachings regarding client-station operation would lead one to achieve the invention of claim 4,

including sending the web content to the client station, since a client station would not sensibly send content to itself. **C)** Carrying out the size-based cost determination within the communication path from the content server to the client station advantageously allows an intermediary, such as an access channel provider, to provide the recipient client device with notice of the size-based cost and to manage collection of payment. Further, contrary to the Examiner's suggestion that Applicant did not disclose any purpose of such an arrangement, advantages such as these are discussed in the specification as filed, for instance, at page 16, lines 7-14, and page 30, lines 7-21. **D)** Applicant submits that the Examiner erred in rejecting claim 16 as being allegedly obvious over Banjaree. Carrying out the functions of Applicant's invention during transmission of the web content within the communication path from the content server to the client station does serve a useful purpose that would not be served by mere client-station determination and presentation of size-based cost. For instance, Applicant's invention facilitates intermediary (e.g., access channel provider) control and management of cost and payment.

In response to **A)**, claim 4 recites "during transmission of the web content within the communication path, between the content server and the client station... after receiving the user approval, sending the web content along to the client station" (emphasis added). The transmission is interpreted as a process of transmitting, not referring to physically transmitting the web content, as the recitation indicates the web content is sent along to the client station only after receiving the user approval.

"During transmission" is therefore interpreted as throughout the duration of the process of transmitting. Since the claim does not recite that the content leaves the content server before the size-based cost processing and the user approval, Nakamishi clearly meets the requirement of claim 4.

In response to **B**), as indicated in the office action (page 6), Banjeree teaches determining and displaying a download cost for the second web page. The second page is identified by a URL (see at least the abstract and para. 0060, 0065). The second page won't be downloaded until the user approves and clicks the radio button. Banjeree clearly teaches the function "after receiving the user approval, sending the web content to the client station."

In response to **C**), the examiner agrees that Applicant does disclose the purpose of such an arrangement, advantages in the specification. However, the intermediary that Applicant suggests is not in the claim. As discussed in **A**), "during transmission" is interpreted as throughout the duration of the process of transmitting. The claim is broad that Banjeree can accomplish the same result with a method for calculating and displaying the cost of downloading web content, including downloading to a browser a first web page, the first web page including at least one hyperlink anchor element, in which the hyperlink anchor element includes a URI identifying a second web page with a download cost, as indicated in Banjeree's abstract.

In response to **D**), first, Applicant's mentioned intermediary (e.g., access channel provider) control and management of cost and payment are not in the claim. As discussed in **A**), "during transmission" is interpreted as throughout the duration of

the process of transmitting. The claim is broad that Banjeree can accomplish the same result with a method for calculating and displaying the cost of downloading web content, including downloading to a browser a first web page, the first web page including at least one hyperlink anchor element, in which the hyperlink anchor element includes a URI identifying a second web page with a download cost, as indicated in Banjeree's abstract.

In view of the foregoing, it is clear that the invention according to claims 4 and 13 is anticipated by Nakanishi, and the invention according to claims 4, 13, and 16 is obvious under 35 U.S.C. 103(a) as being unpatentable over Banjeree.

Thus, in view of such, the rejection is sustained as follows:

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 4, 5, and 13-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Nakanishi et al. (US 2004/0088170 A1, hereinafter referred to as Nakanishi).

Regarding claim 4, Nakanishi discloses: In a communication system wherein web content is transmitted over a communication path from a content server to a client station, a method comprising the following functions carried out during transmission of the web content within the communication path, between

the content server and the client station [see at least Fig. 4 and para. 0103-0125]:

computing a size-based cost to access the web content [para. 0179, charging information is set on a content basis in accordance with each size];

engaging in interstitial communication with the client station to receive user approval to pay the cost [para. 0178, 0184, the user checks the charging information corresponding to the use of the content, determines the use/purchase]; and

after receiving the user approval, sending the web content along to the client station [see at least para. 0197, downloaded; para. 0251, the charging processing based on the **content size**, the content resolution, the content output/use method, etc. when the charging is carried out and **allows a content user to instruct the size**, the resolution, the output/use method, etc. at the time when the charging is carried out].

Regarding claim 5, Nakanishi discloses the method of claim 4, Nakanishi further discloses wherein computing the size-based cost to access the web content comprises: multiplying a charging-rate by a size of the web content [para. 0181, metered rate].

Regarding claim 13, Nakanishi discloses a communication system wherein web content is transmitted over a communication path from a content

server to a client station, the web content defining a hyperlink to be presented by a browser running on the client station, the hyperlink pointing to referenced web content [see at least Fig. 4 and para. 0033-0037], a method comprising:

during transmission of the web content within the communication path, between the content server and the client station [see at least Fig. 4 and para. 0103-0125],

(i) computing a size-based cost to access the referenced web content [para. 0179, charging information is set on a content basis in accordance with each size] and

(ii) adding an indication of the size-based cost into the web content, in conjunction with the hyperlink, such that the indication will be presented to a user when the web content is presented to the user [see at least FIG. 3, URL of content and Charging Information; and para. 0205, the content data contains the charging information for carrying out the charging processing in accordance with the content size].

Regarding claim 14, Nakanishi discloses the method of claim 13, Nakanishi further discloses an access channel between content server and client station, and carrying out at least the adding within the access channel [see at least Fig. 4 and para. 0055].

Regarding claim 15, Nakanishi discloses the method of claim 13, Nakanishi further discloses engaging in interstitial communication with the user to

collect user-payment of the size-based cost for the referenced web content [para. 0178, 0184, the user checks the charging information corresponding to the use of the content, determines the use/purchase].

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable Nakanishi as applied to claim 4, and in view of Kumar et al. (US 2003/0083041 A1, hereinafter referred to as Kumar).

Regarding claim 6, Nakanishi discloses the method of claim 5, but fails to teach wherein computing the size-based cost to access the web content further comprises: selecting the charging rate based at least in part on a factor selected from the group consisting of (i) a service level of a user requesting the web content. However, Kumar discloses computing the size-based cost is based on the user desired quality of service level [para 0045]. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate Kumar's teaching into Nakanishi's method for the purpose of providing various service levels by selecting the charging rate based on service levels of the users requesting the web content, thereby satisfying different users with different needs.

8. Claims 4, 5, and 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banerjee et al. (US 2003/0187806 A1, hereinafter referred to as Banerjee).

Regarding claim 4, Banerjee discloses: In a communication system wherein web content is transmitted over a communication path from a content server to a client station, a method comprising the following functions carried out during transmission of the web content within the communication path, between the content server and the client station [see at least Fig. 1 and para. 0041, 0043, 0047, 0048]:

computing a size-based cost to access the web content [see at least abstract, determining a download cost for the second web page; para. 0060, 0065];

engaging in interstitial communication with the client station to receive user approval to pay the cost [see at least abstract, displaying the cumulative download cost for the second web page; para. 0060, 0065];
and

after receiving the user approval, sending the web content along to the client station [see at least para. 0024, 0054, user click].

Banerjee discloses the claimed invention with the client browser carrying out those functions. It would have been an obvious matter of design choice to implement those functions in the client browser, since Banerjee can accomplish the same result with a method for calculating and displaying the cost of

downloading web content, including downloading to a browser a first web page, the first web page including at least one hyperlink anchor element, in which the hyperlink anchor element includes a URI identifying a second web page with a download cost, as indicated in Banerjee's abstract.

Regarding claim 5, Banerjee discloses the method of claim 4, Banerjee further discloses wherein computing the size-based cost to access the web content comprises: multiplying a charging-rate by a size of the web content [see at least abstract, determining a download cost for the second web page; para. 0060, 0065].

Regarding claim 13, Banerjee discloses a communication system wherein web content is transmitted over a communication path from a content server to a client station, the web content defining a hyperlink to be presented by a browser running on the client station, the hyperlink pointing to referenced web content [see at least Fig. 1 and para. 0041, 0043, 0047, 0048], a method comprising:

during transmission of the web content within the communication path, between the content server and the client station [see at least Fig. 1 and para. 0041, 0043, 0047, 0048],

(i) computing a size-based cost to access the referenced web content [see at least abstract, determining a download cost for the second web page; para. 0060, 0065] and

(ii) adding an indication of the size-based cost into the web content, in conjunction with the hyperlink, such that the indication will be presented to

a user when the web content is presented to the user [see at least abstract, displaying the cumulative download cost for the second web page; para. 0060, 0065].

Banerjee discloses the claimed invention with the client browser carrying out those functions. It would have been an obvious matter of design choice to implement those functions in the client browser, since Banerjee can accomplish the same result with a method for calculating and displaying the cost of downloading web content, including downloading to a browser a first web page, the first web page including at least one hyperlink anchor element, in which the hyperlink anchor element includes a URI identifying a second web page with a download cost, as indicated in Banerjee's abstract.

Regarding claim 14, Banerjee discloses the method of claim 13, Banerjee further discloses an access channel between content server and client station, and carrying out at least the adding within the access channel [Fig. 1, para. 0041, 0043, 0047, and 0048].

Regarding claim 15, Banerjee discloses the method of claim 13, Banerjee further discloses engaging in interstitial communication with the user to collect user-payment of the size-based cost for the referenced web content [see at least abstract, displaying the cumulative download cost for the second web page; para. 0060, 0065].

Regarding claim 16, Banerjee discloses a communication system wherein web content is transmitted over a communication path from a content server to a client station, a method comprising, during transmission of the web content within the communication path, the following functions:

receiving the web content [see at least abstract, downloading web content];

detecting a hyperlink within the web content, wherein the hyperlink points to referenced web content [see at least abstract, **second web page**];

determining a cost of the referenced web content based at least in part on a size of the referenced web content [see at least abstract, determining a download cost for the **second web page**; para. 0060, 0065];

adding into the web content, in conjunction with the hyperlink, an indication of the determined cost [see at least abstract, displaying the cumulative download cost for the second web page; para. 0060, 0065];
and

whereby the indication will be presented to a user when the web content is presented to the user, thereby giving the user an advanced notice of the cost of the referenced web content [see at least abstract, displaying the cumulative download cost for the second web page, taking into account bandwidth cost, usage cost, and any user credits; para. 0060, 0065].

Banerjee discloses the claimed invention with the client browser carrying out those functions. It would have been an obvious matter of design choice to implement those functions in the client browser, since Banerjee can accomplish the same result with a method for calculating and displaying the cost of downloading web content, including downloading to a browser a first web page, the first web page including at least one hyperlink anchor element, in which the hyperlink anchor element includes a URI identifying a second web page with a download cost, as indicated in Banerjee's abstract.

Regarding claim 17, Banerjee discloses the method of claim 16, Banerjee further discloses wherein the communication path comprises an access channel between client station and a packet-switched network [Fig. 1, para. 0041, 0043, 0047, and 0048] the method comprising carrying out the functions within the access channel.

Regarding claim 18, Banerjee discloses the method of claim 16, Banerjee further discloses wherein determining the size-based cost comprises multiplying a charging rate by the size of the web content [para. 0065].

Regarding claim 19, Banerjee discloses the method of claim 16, Banerjee further discloses wherein the web content is defined by a set of markup language [para. 0023], and wherein adding the indication of the size-based cost in conjunction with the hyperlink comprises adding into the set of markup language

[para. 0060], adjacent to the hyperlink, display text indicative of the size-based cost [para. 0062].

9. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Banerjee as applied to claim 4, and in view of Kumar et al. (US 2003/0083041 A1, hereinafter referred to as Kumar).

Regarding claim 6, Banerjee discloses the method of claim 5, but fails to teach wherein computing the size-based cost to access the web content further comprises: selecting the charging rate based at least in part on a factor selected from the group consisting of (i) a service level of a user requesting the web content. However, Kumar discloses computing the size-based cost is based on the user desired quality of service level [para 0045]. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate Kumar's teaching into Banerjee's method for the purpose of providing various service levels by selecting the charging rate based on service levels of the users requesting the web content, thereby satisfying different users with different needs.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is

filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Kurihara, US 2004/0098470 A1, has taught a size-based charging scheme.

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the

structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL C. LAI whose telephone number is (571)270-3236. The examiner can normally be reached on M-F 8:30 - 5:00 EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael C. Lai
27JUN2011

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Primary Examiner, Art Unit 2457